IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.234 OF 1988

The State of Maharashtra ...Appellant
vs.
1.Gopal Vishnu Mulay
(since deceased by his heirs)
1-A Shashikala aGopal Mulay
1-B Avinash Gopal Mulay
1-C Suhas Gopal Mulay
1-D Shailaja Manohar Shukla
1-E Surekha Chandrakant Thombre
1-F Yogini Anil Buwa
1-G Nilesh Gopal Mulay
2. Manohar Ramchandra Shukla
3. Murlidhar Laxman Vaidya
4.Asha Laxman Deshpande
5.Ravindra Manilal Shah
6. Vatsala Shankar Bhadan
(deceased through his heirs)
6 (i) Rajendra Shankar Bhadan
(ii) Vijay Shankar Bhadan
(iii) Sanjay Shankar Bhadan
(iv) Sangita Shankar Bhadan
7. Malati Ramdas Amritkar
(through holder of Special Power
of Attorney Shankar Atmaram Bhadan) ...Respondents

Mr.S.N.Gawade,A.G.P. for the Appellant
Mr.A.J.Ahuja for Respondent Nos.1-D, 2

CORAM: A.S.OKA,J.
DATE : JANUARY 8,2007.

ORAL JUDGMENT :

1. Heard learned A.G.P. for the Appellant. The Appellant State of Maharashtra has taken exception to the Judgment and Award dated 4th April 1987 passed by the learned Joint District Judge, Nashik in land acquisition reference No.153 of 1982.

2. By the impugned Judgment and Award, a reference under

section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act) has been allowed and the enhancement has been granted in the market value in favour of the Respondents. Office noting shows that the Appeal stands abated as against the Respondent No.3 and dismissed as against the Respondent Nos.5 and 6. Respondent No.3 is the original claimant No.3 and the Respondent Nos.5 and 6 are the claimant Nos.5 and 6 respectively. By the impugned Judgment and Award, the original claimants 3,5 and 6 (Respondent Nos.3,5 and 6 respectively) along with the other claimants have been held entitled to enhanced marked value at the rate fixed by the Reference Court.

3. Impugned Judgment and Award proceeds on a ground which is common to all the Respondents. The Award stands confirmed as against Respondent Nos.3,5 and 6. Even if the Appellant succeeds in the Appeal, an Award which is inconsistent to the Award which is confirmed in favour of the Respondent Nos.3,5 and 6 will have to be passed. There cannot be such inconsistent Awards. Thus, as a result of the abatement of the Appeal as against the Respondent No.3 and the dismissal of the Appeal against the Respondent Nos.5 and 6, Appeal does not survive as against the other Respondents.

4. Hence, I pass the following order :

i) Appeal is dismissed with no order as to costs.

JUDGE